

Message Text

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ACTION TRSE-00

INFO OCT-01 EA-07 ISO-00 L-03 OMB-01 CIAE-00 INR-07

NSAE-00 EB-07 COME-00 /026 W
----- 120705

R 040815Z MAR 76

FM AMEMBASSY SEOUL

TO SECSTATE WASHDC 5819

LIMITED OFFICIAL USE SECTION 1 OF 2 SEOUL 1626

E.O. 11652: N/A

TAGS: EFIN KS

SUBJ: KOREAN DEFENSE TAX AND DRAFT U.S.-ROK TAX CONVENTION

REF: SEOUL 1457, STATE 47105, SEOUL 1494, STATE 50883

SUMMARY: A MOFA OFFICIAL INFORMED US THAT THE ROKG IS NOT PREPARED TO AMEND THE WORDING OF ARTICLE 1 OF THE PENDING CONVENTION TO INCLUDE THE KOREAN DEFENSE TAX. HE INDICATED THAT THE ROKG WOULD PREFER TO RESOLVE THE QUESTION BY AN EXCHANGE OF NOTES AT TIME OF SIGNING AND ASKED THAT, IF POSSIBLE, THE DEFENSE TAX LANGUAGE BE INCLUDED IN THE NOTES CONCERNING INVESTMENT INCENTIVES. HE ALSO INDICATED THAT SIGNING SHOULD BE DELAYED BEYOND THE TENTATIVE TARGET DATE OF MARCH 5. THE LIKELIHOOD IS THAT, BARRING ADDITIONAL PROBLEMS AND ASSUMING AGREEMENT ON THE EXCHANGE OF NOTES, SIGNING WILL TAKE PLACE LATE APRIL. AS FAR AS WE ARE ABLE TO DETERMINE, ONLY JAPANESE SHIPPING FIRMS AND AIRLINES ARE EXEMPT FROM THE DEFENSE TAX. END SUMMARY.

1. LEE CHANG-CHOON (M/R SPELLING: YI CHANG-CH'UN), CHIEF, TREATIES DIVISION OF THE MINISTRY OF FOREIGN AFFAIRS (MOFA), INFORMED US THAT THE ROKG WOULD NOT BE PREPARED TO AMEND THE LANGUAGE IN ARTICLE I, PARA (1)(A) SO AS TO INCLUDE THE KOREAN DEFENSE TAX. LEE SAID THAT AMENDING THE WORDING NOW WOULD BE DIFFICULT PROCEDURALLY FOR THE ROKG AS IT WOULD NECESSITATE REVIEW BY THE STATE COUNCIL AND BY THE PRESIDENT. HE ALSO SAID THAT THE ROKG DID NOT WISH TO INCLUDE THE DEFENSE TAX IN THE LIMITED OFFICIAL USE

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CONVENTION BECAUSE THE DEFENSE TAX IS BY NATURE TEMPORARY.

(EMBASSY COMMENT: THE TAX EXPIRES IN 1980 UNLESS EXTENDED BY NEW LEGISLATION).

2. LEE BROACHED THE SUBJECT OF AN EXCHANGE OF NOTES AND STATED THAT THE ROKG WOULD PREFER TO RESOLVE THE PROBLEM THAT WAY. HE ALSO SAID THAT HE FELT THAT IT WOULD BE POSSIBLE TO INCLUDE WITHIN THE NOTES CONCERNING INVESTMENT INCENTIVES ADDITIONAL LANGUAGE THAT WOULD COVER THE DEFENSE TAX. HE ASKED US TO PROPOSE LANGUAGE FOR REVISED DRAFT NOTES TO BE EXCHANGED AT THE TIME OF SIGNING. WE SAID THE DEPARTMENT WAS PREPARED TO CONSIDER AN EXCHANGE OF NOTES ON THE DEFENSE TAX AND THAT WE WOULD CONSULT THE DEPARTMENT ON POSSIBLE TEXTS.

3. WE INQUIRED WHETHER THE ROKG WOULD WISH TO TRY TO MAINTAIN THE TENTATIVE TARGET SIGNING DATE OF MARCH 5. LEE STATED THAT MARCH 5 WAS NOW UNREALISTIC AND THAT SIGNING SHOULD BE POSTPONED UNTIL LATE APRIL. (THE MINISTER OF FOREIGN AFFAIRS IS SCHEDULED TO BE OUT OF THE COUNTRY OR OTHERWISE OCCUPIED FROM MARCH 9 UNTIL LATE APRIL).

4. ACCORDING TO INFORMATION FROM THIRD COUNTRY SHIPPING COMPANIES AND AIRLINES AND ALSO FROM THE MINISTRY OF FINANCE, NO SHIPPING COMPANIES OR AIRLINES OTHER THAN JAPAN'S ARE EXEMPT FROM THE DEFENSE TAX.

5. FOR YOUR CONSIDERATION, WE SUGGEST THAT THE DRAFT NOTES MIGHT BE REVISED TO READ AS IN (A) AND (B) BELOW. WE HAVE NOT SHOWN THESE SUGGESTED TEXTS TO KOREAN OFFICIALS. SINCE THE DEFENSE TAX IS A BUNDLE OF TAXES, INCLUDING, FOR EXAMPLE, AN EXCISE TAX ON ADVERTISING, YOU MAY WISH TO ANTICIPATE A POSSIBLE SUBSEQUENT MOFA REQUEST TO USE A PHRASE SUCH AS "DEFENSE TAX CALCULATED ON THE BASIS OF INCOME" RATHER THAN SIMPLY "DEFENSE TAX."

A. SUGGESTED REVISED DRAFT U.S. NOTE:

"EXCELLENCY

"I HAVE THE HONOR TO REFER TO THE INCOME TAX CONVENTION SIGNED BETWEEN THE GOVERNMENTS OF KOREA AND THE UNITED STATES. DURING THE COURSE OF THE NEGOTIATIONS LEADING UP TO THE SIGNED LIMITED OFFICIAL USE

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CONVENTION, THE KOREAN REPRESENTATIVES (A) STRESSED THE NEED FOR INCREASED PROVISIONS IN THE CONVENTION THAT WOULD CONSTITUTE SPECIAL INCENTIVES TO PROMOTE THE FLOW OF UNITED STATES CAPITAL AND TECHNOLOGY TO KOREA AND (B) STATED THAT THE CONVENTION APPLIES TO THE KOREAN DEFENSE TAX.

"THE UNITED STATES DELEGATION WAS UNABLE TO AGREE TO PROVISIONS FOR SPECIAL INVESTMENT INCENTIVES, BUT I WANT TO ASSURE YOU THAT

MY GOVERNMENT RECOGNIZES THE IMPORTANCE WHICH YOUR GOVERNMENT PLACES ON INCREASED INVESTMENT IN KOREA. ACCORDINGLY, WHEN CIRCUMSTANCES PERMIT, MY GOVERNMENT WILL BE PREPARED TO RESUME DISCUSSIONS WITH A VIEW TO INCORPORATING PROVISIONS INTO THIS CONVENTION THAT WILL MINIMIZE THE INTERFERENCE OF THE UNITED STATES TAX SYSTEM WITH INCENTIVES OFFERED BY THE GOVERNMENT OF THE REPUBLIC OF KOREA AND THAT WILL BE CONSISTENT WITH THE INCOME TAX POLICIES OF THE UNITED STATES GOVERNMENT REGARDING OTHER DEVELOPING COUNTRIES.

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ACTION TRSE-00

INFO OCT-01 EA-07 ISO-00 L-03 OMB-01 CIAE-00 INR-07

NSAE-00 EB-07 COME-00 (ISO) W

----- 010377

R 040815Z MAR 76W

FM AMEMBASSY SEOUL

TO SECSTATE WASHDC 5820

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"I SHOULD APPRECIATE YOUR CONFIRMATION THAT THE GOVERNMENT OF THE REPUBLIC OF KOREA INTERPRETS THE LANGUAGE OF ARTICLE 1 (1) AS CLEARLY INCLUDING THE KOREAN DEFENSE TAX."

(EMBASSY COMMENT: ARTICLE 1(1) (A) PRESUMABLY CANNOT BE CITED BECAUSE THE ALTERNATE PRINCIPLE MAKES THE APPROPRIATE CITATION ARTICLE 1 (1) (B) IN THE U.S. VERSION).

"(COMPLIMENTARY CLOSE)"

B. SUGGESTED KOREAN DRAFT NOTE OF REPLY:

"EXCELLENCY,

"I HAVE THE HONOR TO ACKNOWLEDGE THE RECEIPT OF YOUR EXCELLENCY'S NOTE DATED (MONTH) (DAY), 1976 WITH REGARD TO INCREASED INVESTMENT OF THE UNITED STATES IN KOREA AND WITH REGARD TO THE APPLICATION OF THE TAX CONVENTION TO THE KOREAN DEFENSE TAX.

"I HAVE FURTHER THE HONOR TO NOTE THAT THE UNITED STATES
WILL BE PREPARED, WHEN CIRCUMSTANCES PERMIT, TO RESUME DISCUSSIONS
WITH A VIEW TO INCORPORATING PROVISIONS INTO THE CONVENTION THAT
WILL MINIMIZE THE INTERFERENCE OF THE U.S. TAX SYSTEM WITH
INCENTIVES OFFERED BY THE GOVERNMENT OF KOREA AND THAT WILL BE
CONSISTENT WITH THE INCOME TAX POLICIES OF THE UNITED STATES
GOVERNMENT REGARDING OTHER DEVELOPING COUNTRIES.

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"I ALSO HAVE THE HONOR TO CONFIRM THAT THE DEFINITION
OF KOREAN TAX IN ARTICLE 1 (1) OF THE TAX CONVENTION INCLUDES
THE KOREAN DEFENSE TAX.

"(COMPLIMENTARY CLOSE)"

SNEIDER

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Message Attributes

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Copy: SINGLE
Draft Date: 04 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
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Disposition Case Number: n/a
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